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DECISION OF THE ZONING BOARD OF APPEALS of the TOWN OF WESTWOOD

PROPERTY OWNER(S): Westwood Green LLC

PETITIONER(S):

Michael Terry, Esq.

372 Union Avenue

Framingham, MA 01702

LAND AFFECTED:

31 Abbey Road

Westwood, Massachusetts 02090

Map 29, Lot 123

HEARING:

The Board of Appeals for the Town of Westwood held a Public Hearing according to the General Laws of the Commonwealth of Massachusetts on Thursday, February 13, 2020 at 7:00 PM in the Jaillet Meeting Room at Westwood Police Station, 588 High Street, Westwood, MA 02090 to consider the Petitioner's request for a Special Permit under Section 4.1.7.4 [Other Uses; Temporary] of the Westwood Zoning Bylaw to utilize a single family home as a design studio and sales office for a period of time not to exceed one year. Property located in Single

Residence C (SRC) District.

BOARD MEMBERS:

John Lally

Douglas Stebbins Michael McCusker

APPLICABLE SECTIONS OF THE WESTWOOD ZONING BYLAW

SECTION 4.0 USE REGULATIONS

4.1 PRINICIPAL USES

4.1.1 General. No building or structure shall be constructed, and no building, structure or land shall be used, in whole or in part, for any purpose other than for one or more of the uses herein set forth as permitted in the district in which said building, structure or land is located, or set forth as permissible by special permit in said district, and so authorized. In the case of lots lying partly within the Industrial District or Highway Business District of the Town of Westwood and partly within another abutting municipality, that portion of the lot lying outside of the Town of Westwood may be used to meet the zoning requirements of this Bylaw, and such lot may have effective access through such abutting municipality. However, in all other cases, no building or structure shall be constructed or

used on a lot lying only partly within the Town of Westwood unless the Westwood portion of the lot shall meet the zoning requirements herein set forth, and the lot shall have effective access to the Town of Westwood. There shall be no more than one non-agricultural principal use for each lot in a Residential District, except as may otherwise be provided herein.

4.1.2 **Table of Principal Uses.** The Table of Principal Uses designates which Principal Uses are allowed in each zoning district.

A Use is permitted by right in any district under which it is denoted by the letter "Y".

A Use is prohibited in any district under which it is denoted by the letter "N".

A Use may be permitted by special permit from the Board of Appeals in any district under which is denoted by the letters "BA".

A Use may be permitted by special permit from the Planning Board in any district under which is denoted by the letters "PB".

PRINCIPAL USE						DIS	DISTRICTS						
	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	-	9	ARO
4.1.3 RESIDENTIAL USES													
Single-Family Dwelling	>	>	>	>	>	>	>	z	z	z	z	z	z
4.1.3.2 Conversion of One-Family Dwelling to Two-Family Dwelling per Section 8.1	ВА	ВА	ВА	ВА	BA	BA	BA	z	z	z	z	Z	z
	z	Z	z	Z.	z	ВА	z	z	z	z	z	z	z
4.1.3.4 Senior Residential Development per Section 8.4	PB	PB	PB	PB	PB	PB	PB	Z	Z	z	Z	z	z
4.1.3.5 Residential Retirement Community per Section 8.5	Z	Z	z	z	z	z	z	z	z	z	z	z	ВА
4.1.3.6 Nursing or Convalescent Home	z	z	Z	z	z	z	z	z	z	z	z	z	BA1
4.1.3.7 Assisted Living Residence	Z	z	Z	z	z	z	z	z	z	z	z	z	BA
4.1.3.8 Open Space Residential Development in accordance with Section 8.32	z	>	>	z	>	z	z	z	Z	z	z	z	Z
4.1.4 EXEMPT AND INSTITUTIONAL USES													
4.1.4.1 Use of land or structures for religious purposes	>	>	>	>	>	>	>	>	>	>	>	>	>
4.1.4.2 Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation	>	>-	>-	>-	>-	>	>-	>-	>-	>	· >	· >	· >
4.1.4.3 Child Care Facility in new building	ВА	BA	ВА	BA	ВА	ВА	ВА	ВА	ВА	ВА	BA	ВА	BA
4.1.4.4 Child Care Facility in existing building	>	>	>	>	>	>	>	>	>	>	>	>	>
4.1.4.5 Agricultural Use, Exempt	>	>	>	>-	>	>	>	>	>	>-	>	>	>
4.1.4.6 Farm Stand, Exempt	>	>	>	>	>	>	>	>	>	>-	>	>	>
4.1.4.7 Municipal Facilities	>	>	>	>	>	>	>	>	>	>	>	>	>
4.1.4.8 Essential Services	ВА	ВА	ВА	BA	ВА	ВА	BA	>	>	>	>	>	BA
4.1.4.9 Extension of existing cemetery	>	>	>	>	>	>	>	>	>	>	>	>	>
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TOTAL TABLES						Ω	DISTRICTS	LS					
INITIAL COMMENCE AND A STATE OF THE COMMENCE AND A STATE O	SRA	SRB	SRC	SRD	SRE	S	SR	LBA	LBB	HB	-	9	ARO
4.1.3 COMMERCIAL USES													
4.1.5.1 Agricultural Use, Non-exempt	>	>	>	>	>	>	>	>	>	>	>	>	>
4.1.5.2 Farm Stand, Non-exempt ³	ВА	ВА	ВА	ВА	ВА	BA	ВА	z	z	z	z	z	z
4.1.5.3 Animal Hospital or Animal Clinic	Z	z	z	z	z	z	z	ВА	ВА	>	BA	BA	z
4.1.5.4 Funeral Home	z	z	z	z	z	Z.	z	BA	BA	ВА	z	z	BA
4.1.5.5 Motel or Hotel on five (5) acres or more	Z	z	z	z	z	z	z	z	z	z	BA	BA	z
4.1.5.6 Retail sales and services, less than 10,000 square feet	Z	z	z	z	z	z	z	>	>	3 -	>	>	z
4.1.5.7 Retail sales and services, 10,000 square feet or more	z	z	z	Z	z	z	z	z	Σ̈́	3 ~	BA	ΒĄ	z
4.1.5.8 Motor Vehicle Sales and Rental; other open air sales	z	z	z	z	z	z	z	Z.	Z	BA	z	z	z
4.1.5.9 Motor Vehicle General Repairs and Body Repair	z	z	z	z	Z	z	z	z	z	BA	BA	BA	z
4.1.5.10 Motor Vehicle Light Service	Z.	z	z	z	z	z	z	ВА	ВА	BA	z	z	z
4.1.5.11 Car Wash	z	z	Z.	z	z	z	z	Z.	Z	ВА	z	Z	z
4.1.5.12 Restaurant without entertainment, less than 10,000 square feet	Z	z	Z	z	z	z	z	>	>	>	>	>	z
4.1.5.13 Restaurant without entertainment, 10,000 square feet or more	z	z	z	z	z	z	Z	PB	PB	>	PB	PB	z
4.1.5.14 Restaurant with entertainment	Z	z	z	z	z	z	z	PB	PB	PB	z	z	z
4.1.5.15 Fast Order Food Establishment	z	z	z	z	z	z	z	z	z	BA	z	z	z
4.1.5.16 Coffee Shop	Z	z	z	z	Z	z	z	>	>	>	>	>	z

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4.1.5.17 Ice Cream Parlor	z	z	z	z	z	z	Z	>	>	>	>	>	z
4.1.5.18 Pct Care facility	z	z	z	Z	z	z	z	>	*	>	ВА	ВА	z
4.1.5.19 Commercial boarding or training kennel; Commercial breeder kennel; Veterinary kennel	z	z	z	z	z	Z	z	z	z	>	ВА	BA	Z
4.1.5.20 Professional Services Establishment	z	z	z	z	z	z	z	>	×	>	>	>	>
4.1.5.21 Business Services Establishment	z	z	z	z	z	z	z	>	>	>	X	>	>
PRINCIPALISE						Ω	DISTRICTS	TS					
	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	-	0	ARO
4.1.5 COMMERCIAL USES, CONTINUED										T			
4.1.5.22 Office of doctor or dentist not a resident on premises	z	Z	Z	z	z	BA	Z	>	>	>	>	>	>
4.1.5.23 Bank, Financial Institution	Z	z	Z	z	Z	z	z	>-	>	>	>	>	z
4.1.5.24 Commercial Recreation, Outdoor	z	z	Z	z	Z	z	z	z	z	ВА	z	· z	: z
4.1.5.25 Commercial Recreation, Indoor	z	Z	z	z	Z	z	z	BA	ВА	ВА	BA	BA	BA
4.1.5.26 Golf Course	>	>	>	>	>	>	>	>	>	>	>	>	>
4.1.5.27 Personal Services Establishment	Z.	z	Z	z	z	z	z	>	>	>	>	>	z
4.1.5.28 General Services Establishment	z	z	Z	z	z	z	z	z	z	ВА	Z	z	z
4.1.5.29 Campground, wildlife preserve, fishing grounds operated not for profit	>	>	>	>	>	>	>	>	>	>	>	>	>
4.1.5.30 Printing/copy/publishing establishment, less than 4,000 square feet	z	z	Z	z	Z	z	z	>	>	>	>	>	z
4.1.5.31 Printing/copy/publishing establishment, 4,000 square feet or more	Z	z	Z	z	z	z	z	ВА	ВА	>	>	>	z
Major Business Development per Section 7.2	z	z	z	z	Z	z	z	PB	PB	PB	PB	PB	PB
4.1.5.32 Building Trade Shop in an establishment with less than 8,000 square feet	Z	z	Z	z	Z	z	z	% ~	*~	>	>	>	Z
4.1.5.34 Building Trade Shop in an establishment with 8,000 square feet or more	z	z	z	z	z	Z	z	ВА	ВА	>	>	>	z

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4.1.5.35 Commercial laundry, dry cleaning, dye work, carpet cleaning	z	z	Z.	z	z	z	z	z	z	BA	BA	ВА	z
4,1.5.36 Public Communications Use	z	z	z	z	Z	z	z	z	z	BA	BA®	BA9	z
4.1.5.37 Educational Use, Non-Exempt	z	Z.	z	z	z	z	Z	ВА	ВА	>	>	>	>
4.1.5.38 Contractor's Yard	z	z	z	Z.	z	z	z	z	z	ВА	BA	z	z
4.1.5.39 Medical Marijuana Establishment per Section 7.4	z	z	z	z	z	z	z	Z	z	z	z	z	BA
4.1.5.40 Non-Medical Marijuana Establishment	z	Z	z	z	Z	z	z	z	Z	z	z	z	z
4.1.5.41 Fire Arms/Explosives Sales and Service	z	z	z	z	z	z	z	BA	BA	BA	BA	z	z
4.1.5.42 Taxi Service	z	z	z	z	z	z	z	z	z	ВА	z	z	z
PRINCIPALITICE						9	ISTRICTS	CTS					
	SRA	SRB	SRC	SRD	SRE	SR	SR	LBA	LBB	HB	-	2	ARO
4.1.6 INDUSTRIAL USES													
4.1.6.1 Earth Material Movement per Section 7.1	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB
	z	z	z	z	z	z	z	z	z	>	>	>	z
	Z	z	z	z	z	z	z	z	Z	>	>	>	z
4.1,6.4 Warehouse, wholesale or distribution facility with outdoor storage	z	Z	Z	z	z	z	Z	z	z	BA	ВА	ВА	z
4.1.6.5 Manufacturing	z	z	z	Z.	z	z	z	z	z	>	>	>	z
4.1.6.6 Junkyard or Automobile Graveyard	z	z	z	z	z	z	z	z	z	z	z	z	z
4.1.6.7 Research and Development	z	z	z	z	z	z	z	z	z	>	>	>	>
4.1.6.8 Self-Storage or Mini-Storage Facility per Section 7.6	z	z	z	z	z	z	z	Z	z	PB	PB	PB	z
4.1.7 OTHER USES 4.1.7.1 Pay-to-Park Outdoor Parking Facility	z	z	z	z	z	z	z	BA	ВА	ВА	ВА	ВА	z

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.7.2 Parking Garage	Z	2	Z	Z	2	2	2	Ž	2	2	;	;
9	2	_	2	<u>.</u>	<u>.</u>	<u> </u>	Z	Z	Z	Z.	Z	Z
1.7.3 Drive-Through Service	z	z	z	Z	z	Z	Z	ВА	BA	RA	RA	A
1.7.4 Temporary Structure, building or use not in								:	i	i	;	í
conformance with this Bylaw, but not for more	í		i	í								
than one (1) year or extended ower more than a	RΑ	ВA	BA	ВА	BA	ВА	BA	ВА	BA	BA	BA	BA

BA BA

BA

TILL 1 AINING CALASC	Z	z	Z,
4.1.7.3 Drive-Through Service	z	z	Z
4.1.7.4 Temporary Structure, building or use not in conformance with this Bylaw, but not for more than one (1) year, or extended over more than a total of three (3) years	BA	ВА	ВА

FINDINGS

In consideration of all of the testimony and exhibits and documents submitted before the Board, the Board makes the following findings of fact:

- 1. The Petitioner is proposing to utilize a single family home located at 31 Abbey Road as a design studio and sales office for a period of time not to exceed one year. The use is considered temporary and allowed only by Special Permit by the Board of Appeals, which is the granting authority.
- 2. The property is located within a new residential development of 40 age restricted condominiums permitted under the Open Space Residential Development bylaw and approved by Planning Board in 2019.
- 3. The Petitioner proposes to utilize the garage of the property as a design studio and office space to accommodate design and sales activities for the remaining residential units within the development.
- 4. The use is proposed to cease when sales of the residential development are completed.
- 5. Any adverse effects of the Petitioner's proposed construction will not outweigh its beneficial impact to the Town, or the neighborhood, in view of the particular characteristics of the site and the proposal in relation to that site.
- 6. The Petitioner's proposed construction will not have a material adverse effect on the value of the land and buildings in the neighborhood, or on the amenities thereof, or be detrimental to the normal use of the adjacent property, and it will not be injurious or dangerous to the public health or hazardous because of traffic congestion, or other reason, and any adverse effects of the proposed use do not outweigh its beneficial aspects, all in view of the particular characteristics of the site and of the proposal in relation to that site.
- 7. The Petitioner has met all the requirements for a Special Permit pursuant to the Westwood Zoning Bylaw.

DECISION and CONDITIONS

The Board of Appeals voted unanimously to grant the Petitioner's request for a Special Permit pursuant to Section 4.1.7.4 of the Westwood Zoning Bylaw and upon the following conditions:

- 1. The Project shall be constructed in conformity with the submitted description of use signed by Michael Terry, Esq. and dated January 9, 2020. The Applicant shall pursue completion of the Project with reasonable diligence and continuity.
- 2. This Special Permit shall not take effect until a copy of the Decision, bearing the certification of the Town Clerk that twenty (20) days have elapsed after the filing of the decision and either that no appeal has been filed or that an appeal has been filed within such time period, is recorded in the Registry of Deeds and indexed under the name of the property owner of record and the parcel address. A copy of these recordings shall be provided to the Building Commissioner, Town Clerk and the Board of Appeals.
- 3. The Special Permit shall expire in one (1) year. Prior to the expiration of the Special Permit, the Applicant may apply for an extension of the Special Permit for a period not to exceed a total of three (3) years.
- 4. This Special Permit shall lapse within a specified period of time, of not more than two (2) years, which shall not include such time required to pursue or await the determination of the appeal referred to in Chapter 40A, Section 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause.

RECORD OF VOTE

The following members of the Board of Appeals voted to grant the Special Permit: John Lally, Douglas Stebbins and Michael McCusker.

The following members of the Board of Appeals voted in opposition to the grant of the Special Permit: None.



WESTWOOD ZONING BOARD OF APPEALS

RECEIVED

By Town Clerk at 11:43 am, Feb 28, 2020

Douglas Stebbins, Clerk

Michael McCasker

31 Abbey Road